

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 05-6770

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

versus

EMMANUEL S. MCCRAE,

Defendant - Appellant.

Appeal from the United States District Court for the Eastern
District of North Carolina, at Raleigh. Terrence W. Boyle,
District Judge. (CR-01-106; CA-03-420)

Submitted: November 23, 2005 Decided: December 12, 2005

Before WILLIAMS, MOTZ, and SHEDD, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Emmanuel S. McCrae, Appellant Pro Se. Felice McConnell Corpening,
OFFICE OF THE UNITED STATES ATTORNEY, Raleigh, North Carolina, for
Appellee.

Unpublished opinions are not binding precedent in this circuit.
See Local Rule 36(c).

PER CURIAM:

Emmanuel S. McCrae, a federal prisoner, seeks to appeal the district court's order dismissing his motion filed under 28 U.S.C. § 2255 (2000), as untimely filed under § 2255 ¶ 6(4). The order is not appealable unless a circuit justice or judge issues a certificate of appealability. 28 U.S.C. § 2253(c)(1) (2000). A certificate of appealability will not issue absent "a substantial showing of the denial of a constitutional right." 28 U.S.C. § 2253(c)(2) (2000). A prisoner satisfies this standard by demonstrating that reasonable jurists would find that the district court's assessment of his constitutional claims is debatable or wrong and that any dispositive procedural rulings by the district court are also debatable or wrong. See Miller-El v. Cockrell, 537 U.S. 322, 336-38 (2003); Slack v. McDaniel, 529 U.S. 473, 484 (2000); Rose v. Lee, 252 F.3d 676, 683-84 (4th Cir. 2001). We have independently reviewed the record and conclude that McCrae has not made the requisite showing. Accordingly, we deny a certificate of appealability and dismiss the appeal. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

DISMISSED